



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,519	06/20/2001	Kenichi Ariga	P/3281-8	3354

32172 7590 04/22/2005

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
1177 AVENUE OF THE AMERICAS (6TH AVENUE)
41 ST FL.
NEW YORK, NY 10036-2714

EXAMINER

SHINGLES, KRISTIE D

ART UNIT	PAPER NUMBER
----------	--------------

2141

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,519

Applicant(s)

ARIGA, KENICHI

Examiner

Kristie Shingles

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant has amended claims 1 and 9.

Claims 8 and 14 are cancelled.

Claims 1-7 and 9-13 are pending.

Abstract

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The objection to the abstract has been withdrawn.

Drawings & Specification

2. The proposed drawing and specification corrections filed on 1/31/2005 have been accepted by the Examiner. The corrections to the drawings and specification will not be held in abeyance.

Response to Arguments

3. Applicant's arguments, see page 9 of Applicant's Remarks filed 1/31/2005 with respect to the rejection(s) of claim(s) 1 and 9 under 35 U.S.C. 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration,

Art Unit: 2141

a new ground(s) of rejection is made in view of *Herz et al* (USPN 6,571, 279) and *Kenner et al* (USPN 6,269,394).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **1, 3, 6, 7 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Herz et al* (USPN 6,571,279) in view of *Kenner et al* (USPN 6,269,394).

a. Per claim 1, *Herz et al* teach a regional information distribution system for use in distributing regional information to consumers through a communication network, said system comprising:

- an information input terminal for making advertising data designating regions where said advertising data are distributed (Abstract, col.4 lines 6-24 and col.5 lines 35-61; distribution and delivery advertising system based on location via input terminals);
- a concentrated management server which is connected with said information input terminal through said communication network and which manages said advertising data (col.5 lines 14-34 and col.7 line 54-col.8 line 36; pseudo proxy server and display-controlling server broadcast or multicast information to the display units); and
- a regional distribution server which is connected with said concentrated management server through said communication network and which is integrated with a radio base station located per each region where said advertising data are distributed and which distributes said advertising data to a handy terminal existing within the area of said radio base station (col.15 line 39-col.16 line 48, col.17 line 55-col.18 line 67 and col.19 line 59-col.20 line 16; pseudo proxy server is in

communication with the SDI server where advertising data is distributed based on the profiles and rules of user terminals).

Yet *Herz et al* fail to distinctly teach use of a support server for distributing said advertising data in place of said regional distribution server, when load is concentrated on said regional distribution server. However, *Kenner et al* disclose the use of dynamic load balancing among the servers for reducing and distributing the processing workload on the servers (Abstract, col.30 lines 40-51 and col.31 line 40-col.32 line 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Herz et al* and *Kenner et al* for the purpose of distribution of the processing load on server by implementing a load balancing scheme; because it would prevent the servers from being overloaded and provide additional servers for backup and/or balancing.

b. **Claim 9** contains limitations that are substantially equivalent claim 1 and is therefore rejected under the same basis.

c. **Per claim 3**, *Herz et al* teach a regional information distribution system as claimed in claim 1, wherein said information input terminal is located in a shop which requests distribution of said advertising data (col.19 lines 19-67, col.25 lines 26-55 and col.26 line 29-col.27 line 34; system allows for vendor/origin servers located within the vendor stores to query and request distribution of advertising data by contacting the SDI server).

d. **Per claim 6**, *Herz et al* teach a regional information distribution system as claimed in claim 1, wherein said handy terminal has information filter function for determining favorable conditions of said advertising data for an owner of said handy terminal (col.14 lines 58-62 and col.21 lines 23-55; system provides for information filters according to the user's information and preferences).

e. **Per claim 7**, *Herz et al* teach a regional information distribution system as claimed in claim 6, wherein said regional distribution server distributes only a part of said advertising data to said handy terminal; said part of said advertising data complying with said favorable conditions determined by said information filter function (col.26 lines 29-48; system provides for distribution of advertisements that are in compliance with user's information, location and preferences—only the information that meets the selected criteria is forwarded to the user's terminal).

6. Claims **2, 4, 5** and **10-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Herz et al* in view of *Kenner et al* and further in view of *Park* (USPN 5,627,549).

a. **Per claim 2**, *Herz et al* and *Kenner et al* teach the system of claim 1 as applied above, yet fail to distinctly teach a regional information distribution system as claimed in claim 1, wherein date, time, and period for distributing said advertising data are added to said advertising data. However, *Park* discloses a distribution system that incorporates time-stamps with the advertising data records (col.7 line 59-col.8 line 12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Herz et al* and *Park* in order to provide time-stamp information with the advertising data for the purpose of informing the user of the time the data was displayed and for archiving purposes. One skilled in the art would have been motivated to generate the claimed invention with a reasonable expectation of success.

b. **Claim 10** is substantially equivalent to claim 2 and is therefore rejected under the same basis.

Art Unit: 2141

c. **Claims 4 and 11** contain limitations substantially equivalent to claim 3 and are therefore rejected under the same basis.

d. **Per claim 5**, *Herz et al* teach a regional information distribution system as claimed in claim 4, wherein information of position of said shop is linked to said regional distribution server (col.19 lines 35-67; vendor's can provide location information to the SDI server or request updates from the central SDI server).

e. **Claim 12** is substantially equivalent to claim 5 and is therefore rejected under the same basis.

f. **Claim 13** is substantially equivalent to claim 7 and is therefore rejected under the same basis.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. *Stern* (USPN 6,553,404) discloses a digital system.
- b. *Hild et al* (USPN 6,532,368) disclose service advertisements in wireless local networks.
- c. *Mikkola et al* (USPN 6,529,143) disclose an information retrieval system.
- d. *Waese et al* (USPN 6,286,031) disclose a scalable multimedia distribution method using client pull to retrieve objects in a client-specific multimedia list.
- e. *Dan et al* (USPN 6,223,206) disclose a method and system for load balancing by replicating a portion of a file being read by a first stream onto second device and reading portion with a second stream capable of accessing.

Art Unit: 2141

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER